

# DOCKET SECTION

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

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Postal Rate and Fee Changes, 1997  
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Docket No. R97-1

## AMMA AND RIAA RESPONSE TO PRESIDING OFFICER'S RULING NO. R97-1/49

The Advertising Mail Marketing Association ("AMMA") and Recording Industry Association Of America ("RIAA") jointly submit this response to POR NO. R97-1/49. We share the view of Presiding Officer that the dispute at issue here "involve[s] important questions of law or policy concerning which there is substantial ground for difference of opinion . . . ." Some of the issues posed by the pending motions obviously must be resolved immediately; we submit that other broader issues implicated by the pending motions are best reserved for a calmer day.

The controversy in this proceeding concerning sponsorship (or lack of it) of library references poses a number of reaching questions for future proceedings. These issues range from the broad inquiry into when sponsorship is or ought to be required to more narrow (but perhaps no less important) questions concerning the appropriate conformity between the hard copy presentation of work papers and the electronic support for them, the degree of precision in testimonial reference to library references (see, e.g., 6 Tr. 3097, lines 13-17) and the interrelationship of library references that rely upon other library references as sources (see, e.g., 5 Tr. 2383, lines 1-5). So far as AMMA and RIAA are concerned, these questions do not require immediate resolution. They are best reserved for a time when the scarce resources of all of us are not committed to the complex rate litigation now under way. This is so because the Postal

Service has offered sponsors for all of the library references supporting testimony important to the concerns of the two associations.

There is, however, a more narrow issue that requires immediate decision. As we believe that all participants (including the Postal Service) to the proceeding contemplate, it is imperative that Postal Service witnesses sponsoring library references be made available for oral cross-examination. We believe that efficiency in the process of that examination will best be served if these new library reference sponsor witnesses be subject to written discovery in advance of their appearance on the stand. The Postal Service has been forthcoming in providing institutional responses to previously unsponsored library references. However, it is not always true that a witness's endorsement of an institutional response uniformly leads to an effective opportunity for oral cross-examination. ("All I really know about this is what I am reading to you from this interrogatory response." 5 Tr. 2632, lines 7-8.)<sup>1/</sup> All told, albeit for considerably different reasons than advanced in the pending motions, AMMA and RIAA support the idea that a period of discovery be permitted of newly designated sponsors of Postal Service library references prior to the oral cross-examination of those witnesses.

Respectfully submitted,



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<sup>1/</sup> Some parties contend that they have been lulled into declining to thoroughly interrogate the information contained only in library references on the persuasion that those documents were not in evidence and thus irrelevant. Whatever one makes of the power of those arguments, this objection would be mooted by providing an opportunity to discover concerning information contained in library references from the newly found sponsors of those documents.

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this date served the attached document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.

DATE: October 23, 1997

  
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N. Frank Wiggins